

COSTA RICA 2021 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Costa Rica is a constitutional republic governed by a president and a unicameral legislative assembly directly elected in multiparty elections every four years. In 2018 voters elected Carlos Alvarado of the Citizen's Action Party as president during a second round of elections. All elections were considered free and fair.

The country has no military forces. Civilian authorities maintained effective control over the 13 agencies that have law enforcement components, including the judicial branch's Judicial Investigative Organization. The Ministry of Public Security is responsible for the uniformed police force, drug control police, border police, air wing, and coast guard. The Immigration Office is responsible for the immigration police. The Ministry of Public Works and Transportation supervises the traffic police, the Ministry of Environment supervises park police, and the Ministry of Justice manages the penitentiary police. Several municipalities manage municipal police forces. Civilian authorities maintained effective control over the security forces. There were credible reports of isolated instances where members of the security forces committed abuses.

There were no reports of significant human rights abuses.

The government had mechanisms in place to identify and punish officials who may commit human rights abuses.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or

unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison conditions were harsh due to gross overcrowding, inadequate sanitary conditions, difficulties obtaining medical care, and violence among prisoners.

Physical Conditions: Overcrowding was a problem. As of July the prison population exceeded the designed capacity of prisons by 22 percent, according to official statistics. Although the Ministry of Justice made efforts to expand prison capacity and improve conditions in accordance with international standards, some prisons, as well as the comprehensive care units (minimum-security prisons), remained overcrowded, with the population in pretrial detention experiencing the most overcrowding. Authorities held male pretrial detainees with convicted prisoners on occasion.

The Ministry of Justice was responsible for the prison system, while the Immigration Office maintained a migration facility in Heredia holding undocumented migrants until they were deported or regularized their migration status. In August the central migrant detention center received American Correctional Association accreditation.

On October 4, the Constitutional Chamber of the Supreme Court ruled in favor of a petition filed by the head of the judicial investigative police to allow the temporary transfer of detainees who were held for more than 72 hours in investigative police jails to the San Sebastian detention center, which had a court closure order for overcrowding. During a hearing at the National Assembly on June 24, the minister

of justice explained that a lack of personnel was the reason the new Institutional Attention Center located in San Rafael of Alajuela, with capacity for 1,250 inmates, had not been opened, despite the overcrowding in prisons.

On January 8, the Constitutional Chamber of the Supreme Court ordered the prison administration to install video cameras at a comprehensive care unit located in Alajuela to monitor the searches, after a prisoner filed a petition for protection for allegedly having been beaten during a search in 2020.

Poor conditions included inadequate space for resting, deteriorated mattresses on the floor, and inadequate access to health services. Illegal narcotics were readily available in the prisons, and drug abuse was common. In January the Ministry of Justice announced that telephone companies blocked mobile phone signals inside 20 prisons to prevent inmates from carrying out illegal activities while incarcerated.

Administration: The Ombudsman's Office investigated all prisoner complaints, including credible allegations of mistreatment.

Independent Monitoring: The government permitted independent monitoring of prison conditions by international and local human rights observers. The Office of the UN High Commissioner for Refugees (UNHCR) monitored the migration detention facility, and the government ombudsman monitored all other detention centers, with UNHCR visiting monthly and the ombudsman preparing annual reports.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right for any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

The law requires issuance of judicial warrants before police may make an arrest, except where probable cause is evident to the arresting officer. The law entitles a detainee to a judicial determination of the legality of detention during arraignment

before a judge within 24 hours of arrest. The law provides for the right to post bail and prompt access to an attorney and family members. Authorities generally observed these rights. Indigent persons have access to a public attorney at government expense. Those without sufficient personal funds are also able to use the services of a public defender. With judicial authorization, authorities may hold a suspect incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days. Special circumstances include cases in which pretrial detention previously was ordered and there is reason to believe a suspect may reach an agreement with accomplices or may obstruct the investigation. Suspects were allowed access to attorneys immediately before submitting statements before a judge. Authorities promptly informed suspects of any offenses under investigation. Habeas corpus provides legal protection for citizens against threats from police; it also requires judges to give a clear explanation of the legal basis for detention of and evidence against a suspect.

Pretrial Detention: Lengthy pretrial detention was a problem. According to the Ministry of Justice, as of July persons in pretrial detention constituted approximately 13 percent of the prison population, compared with 20 percent in 2020. The average length of pretrial detention was 90 to 180 days. In some cases delays were due to pending criminal investigations and lengthy legal procedures. In other cases the delays were a result of court backlogs. The length of pretrial detention generally did not equal or exceed the maximum sentence for the alleged crime. The law establishes that preventive detention should be proportional to the sentence for the alleged crime, and authorities generally complied with that mandate.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right.

All defendants have the right to the presumption of innocence, to be informed

promptly and in detail of the charges, and to trial without undue delay. In practice, however, the legal system experienced significant delays in the adjudication of criminal cases and civil disputes and a growing workload.

All trials, except those that include juvenile defendants, are public. Trials that involve victims or witnesses who are minors are closed during the portion of the trial in which the minor is called to testify. Defendants have the right to be present during trial and communicate with an attorney of choice in a timely manner or to have one provided at public expense. Defendants enjoy the right to adequate time and facilities to prepare a defense and free assistance of an interpreter as needed. Defendants may confront prosecution or plaintiff witnesses and present witnesses and evidence on their own behalf. Defendants have the right not to be compelled to testify or confess guilt. Defendants have the right to appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

An independent and impartial judiciary presides over lawsuits in civil matters, including human rights violations. Individuals or organizations may seek civil remedies for human rights abuses through domestic courts or through administrative or other mechanisms established by law. Individuals and organizations may appeal adverse domestic decisions to regional human rights bodies.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and

Other Media

The constitution provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent media, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for members of the media.

Censorship or Content Restrictions: In July the Constitutional Chamber of the Supreme Court partially ruled in favor of a daily newspaper that accused the government in 2020 of denying access to information during the daily coronavirus pandemic press briefings. On June 30, during the presentation of her annual report to the National Assembly, the ombudswoman expressed concerns that the president was declining interview requests to independent media outlets and not holding more press conferences. The minister of communications explained that weekly press briefings were exclusively for answering questions about the coronavirus pandemic.

Actions to Expand Freedom of Expression, Including for Members of the Media: An appeals judge urged the Attorney General's Office to investigate a leakage to the press of evidence that judicial authorities obtained through wiretapping for a high-profile corruption scandal. The judge did not censor media outlets for publishing information of public interest but indicated that those responsible for maintaining confidentiality of court files should be held accountable.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private

communications without appropriate legal authority.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has an established system for providing protection to refugees. The law requires authorities to process the claims within three months of receipt, but decisions took an average of 24 months and an additional 12 months for the appeals process. Due to COVID-19 restrictions, the Migration Authority only conducted appointments scheduled through a call center. A 20 percent capacity limit at the Migration Authority caused delays in appointments. In June the

Migration Authority's Refugee Unit began handling a growing number of persons requesting asylum or refugee status, with the majority originating from Nicaragua.

As of July 1, the Appeals Tribunal, which adjudicates all migration appeals, had a backlog of 284 asylum cases but stated these figures would increase as pending claims moved to the appeals process. UNHCR provided support to the Refugee Unit and the Appeals Tribunal to hire additional legal and administrative personnel to assist with reduction of the backlog and to continue a process of regionalization of services.

Employment: Refugee regulations provide asylum seekers an opportunity to obtain work permits if they have to wait beyond the three months the law allows for a decision on their asylum claim (which occurred in virtually all cases). The waiting period for a work permit was compounded by the months-long delay most asylum seekers faced in obtaining an appointment to file an asylum application, at which point the three-month period begins. Refugees and asylum seekers reported that job opportunities were scarce. In the case of professionals, refugees and asylum seekers faced significant bureaucratic processes in obtaining a license to practice locally.

Access to Basic Services: By law asylum seekers and refugees have access to public services and social welfare programs, but access was often hampered by lack of knowledge about their status in the country, failure of service providers to recognize the identification provided to asylum seekers by the Migration Authority, and feelings of xenophobia among some service providers. For example, asylum seekers without employers (who constituted the majority of asylum seekers) faced restrictions when enrolling voluntarily as independent workers in the public health system.

Asylum seekers received provisional refugee status documents legalizing their status after appearing for an interview with the Migration Authority, for which the estimated wait time was eight months before the pandemic. Provisional refugee identity cards do not resemble other national identity documents, and although government authorities generally accepted them, many private citizens did not. Upon receiving refugee status, which typically took two years, refugees could obtain an identity document similar to those used by nationals at a cost of 43,000

colones (\$68), renewable every two years.

Refugees and asylum seekers reported that access to health services was difficult. They qualified for public health services only if they were minors, pregnant, or facing a life-threatening emergency, but some individuals reported being denied services even in emergency situations. In February UNHCR announced an agreement to expand health insurance, which already covered 6,000 of the most vulnerable refugees, to cover an additional 4,000 refugees through the year.

Durable Solutions: The government implemented a Protection Transfer Arrangement in coordination with UNHCR and the International Organization for Migration for refugee resettlement in third countries. In June the government reestablished resettlement operations suspended in 2020 due to the COVID-19 pandemic. For those obtaining refugee status, the government was committed to their local integration both legally and socially and to facilitating their naturalization process.

Temporary Protection: In November 2020 the Migration Authority approved a temporary complementary protection program for Venezuelan, Nicaraguan, and Cuban immigrants who did not qualify for refugee status. As of July the government provided temporary protection to 1,213 persons through this program. The program, which went into effect in 2020 and would have ended on December 15, 2021, was extended until February 28, 2022.

g. Stateless Persons

Citizenship is obtained from birth within the country's territory or can be derived if either parent is Costa Rican. There continued to be problems of statelessness of indigenous children and children of seasonal workers in the border areas with Panama and Nicaragua, derived from the difficulties linked to birth registrations. Members of the Ngobe-Bugle indigenous group from Panama often worked on Costa Rican farms and occasionally gave birth there. In these cases parents did not register Ngobe-Bugle children as Costa Rican citizens at birth because they did not think it necessary, although the children lacked registration in Panama as well. Government authorities worked with UNHCR on a program of birth registration and provision of identification documents to stateless persons. Mobile teams went

to remote coffee-growing areas for case identification and registration. UNHCR and the National Civil Registry continued a project along the northern border for individuals of Nicaraguan origin to facilitate procedures for late birth registration. On January 14, the president signed an executive order issuing regulations to the 2019 law that protects the right to citizenship for transborder indigenous persons.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In 2018 voters elected Citizen's Action Party's (PAC) Carlos Alvarado president during a second round of elections, after no candidate achieved 40 percent of the first-round vote. Presidential and legislative elections are simultaneous. In 2018 legislative elections, the National Liberation Party (PLN) gained the most seats, but it did not achieve a majority in the National Assembly. In internal legislative elections in May, the PLN won the presidency of the National Assembly for one year in an alliance that included the Social Christian Unity Party and evangelical Christian parties.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of historically marginalized groups in the political process, and they did participate.

Women; lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons; and persons of African descent were represented in government, but persons with disabilities and indigenous persons were not. In national elections political parties must guarantee gender parity across their electoral slates and confirm that gender parity extends vertically. The electoral code requires that a minimum of 50 percent of candidates for elective office be women, with their names placed alternately with men on the ballots by party slate.

Section 4. Corruption and Lack of Transparency in

Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption during the year.

Corruption: On June 14, judicial authorities searched the Presidency, the Ministry of Public Transportation, and the National Road Commission, among other sites, as part of an investigation in a high-profile corruption case related to several highway construction projects. The owners of two of the construction companies were initially detained and released on bail but later were arrested as a preventive measure. A presidential advisor and the head of the road commission, both of whom were under investigation, resigned. The National Assembly appointed an ad hoc committee to investigate the case.

During the year the Attorney General's Office indicted cement businessman Juan Carlos Bolanos and former legislator Victor Morales-Zapata for influence peddling and bribery in two cases related to the 2017 high-profile corruption scandal known locally as the "Cementazo."

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

Government Human Rights Bodies: The Ombudsman's Office reviews government action or inaction that affects citizens' rights and interests. The ombudsman is accountable to the National Assembly, which appoints the person to a four-year term and funds office operations. The ombudsman participates in the drafting and approval of legislation, promotes good administration and transparency, and reports annually to the National Assembly with nonbinding recommendations. International institutions and nongovernmental organization observers recognized the Ombudsman's Office as an independent and effective

instrument for promoting human rights.

A special committee of the National Assembly studies and reports on problems relating to the violation of human rights, and it also reviews bills relating to human rights and international humanitarian law.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, and domestic violence, and it provides penalties from 10 to 18 years in prison for rape. The judicial branch generally enforced the law effectively.

The law prohibits domestic violence and provides measures for the protection of domestic violence victims. Criminal penalties range from 10 to 100 days in prison for aggravated threats and up to 35 years in prison for aggravated homicide, including sentences of 20 to 35 years for persons who kill their partners. The government enforced the laws effectively.

Violence against women remained a serious problem, and as of May the government reported that 29 women had been killed, including four killed by a partner or spouse. On May 14, the president signed a reform to the Law on Criminalization of Violence Against Women to expand the protections available to victims of violence, including to those who are in informal relationships, engaged to be married, divorced, and separated. On August 23, the president signed a reform to the law, which includes the concept of femicide in other contexts.

Sexual Harassment: The law prohibits sexual harassment in the workplace and educational institutions, and the Ministry of Labor and Social Security generally enforced this prohibition. The government enforced the law effectively. The law imposes penalties ranging from a letter of reprimand to dismissal, with more serious incidents subject to criminal prosecution.

Reproductive Rights: There were no reports of coerced abortion or involuntary

sterilization on the part of government authorities.

According to human rights experts, problems related to access of reproductive health services remained for lesbian and bisexual, indigenous, and Afrodescendent women, and women with disabilities.

There were some barriers to access contraception. The COVID-19 pandemic especially affected vulnerable population's access to sexual and reproductive health. A study by the UN Population Fund reported the country may have regressed by as much as five years with respect to access to short-term contraception caused by the lack of access to health services, either due to pandemic-related isolation measures, caregiving tasks that fall mainly on women (which increased during the pandemic), or lack of information. On May 5, health authorities announced that the public health system included emergency contraception as a service, according to a guideline published on April 16; previously, emergency contraception was provided only to victims of rape.

Some social barriers adversely affected access to skilled health care providers during pregnancy and childbirth. Women in rural areas and indigenous women did not always have access to health care during childbirth due to geographic isolation. Some women had difficulty accessing prenatal care. Government regulations state that all pregnant women, including undocumented migrants and asylum seekers, have access to health services. In practice, however, refugees and asylum seekers reported that access to health services and reproductive health management services was difficult. Refugee and migrant advocates stated that this population only qualified for public health services if they were minors, visibly pregnant, or facing a life-threatening emergency, but some individuals reported being denied services even in emergency situations.

The government provided some access to sexual and reproductive health services for survivors of sexual violence. The government does not allow abortion for survivors of rape or sexual violence. Human rights experts identified problems such as revictimization and access to antiretroviral therapy.

On October 11, the National Institute for Women and the UN Population Fund presented a guide made for the indigenous territories of Talamanca to raise

awareness regarding the importance of preventing pregnancies in girls and adolescents. During the year the birth rates of girls and adolescents within the Talamanca region surpassed the national average by 17 per 1,000.

Discrimination: Women enjoy the same legal status and rights as men; however, the law restricts women's ability to work the same hours as men or in sectors deemed dangerous. The law prohibits discrimination against women and obligates the government to promote political, economic, social, and cultural equality. The law requires that women and men receive equal pay for equal work. The government enforced the laws effectively, although an official study reported a pay gap of 13 percent for highly skilled jobs, which remained largely male dominated.

Systemic Racial or Ethnic Violence and Discrimination

The constitution establishes that the country is a multiethnic and multicultural nation. The government enforced the law effectively. On August 10, the president signed a law establishing affirmative hiring policies for persons of African descent.

Indigenous Peoples

Land ownership continued to be a problem in most indigenous territories. The law protects reserve land as the collective, nontransferable property in 24 indigenous territories; however, 38 percent of that land was in nonindigenous hands.

On March 22, the president participated in a meeting with indigenous leaders to find ways to streamline processes in favor of a plan for the recovery of indigenous territories, designed to comply with the 1977 indigenous law obligating the return of land to indigenous communities. The government put embargoes on properties owned by nonindigenous individuals located in indigenous territories. A few embargoed properties were in the southern region that in the past suffered violent incidents, including the killing of two activists over land ownership.

On August 25, Judge Jean Carlos Cespedes Mora issued an eviction order against a community of indigenous women in the Cabecar territory of China Kicha, in favor of the nonindigenous individual Danilo Badilla Roman. Indigenous leaders and activists denounced this ruling, stating that the registry of state information showed the land had the official annotation of "property located in indigenous territory"

and that according to the indigenous law, nonindigenous persons “may not rent, lease, buy or in any other way acquire lands or farms included within these reserves,” and “any transfer or negotiation of lands or improvements of these in indigenous reserves, between indigenous and nonindigenous, is absolutely null.” Badilla’s property deeds were granted in 2019, long after the 1977 indigenous law was passed.

Indigenous women faced social and political obstacles to participate in local governance and to hold leadership positions in social organizations. The board of directors of the National Indigenous Commission comprised seven members, but only one of them was female.

Children

Birth Registration: Citizenship is obtained from birth within the country’s territory or can be derived if either parent is Costa Rican. Birth registration was not always automatic, and migrant children were especially at risk of statelessness since they did not have access to legal documents to establish their identity if their parents did not seek birth registration for them.

Child Abuse: The autonomous National Institute for Children (PANI) reported violence against children and adolescents continued to be a concern, but there was no marked increase in the number of cases of child violence or abuse.

Child, Early, and Forced Marriage: The minimum legal age of marriage is 18. The law establishes penalties for sex with minors and prohibits child marriage. The crime carries a penalty of up to three years in prison for an adult having sex with a person younger than age 15, or younger than 18 if the age difference is more than five years.

Sexual Exploitation of Children: The law criminalizes the commercial sexual exploitation of children and provides sentences of up to 16 years in prison for violations. The law provides for sentences of two to 10 years in prison for statutory rape and three to eight years in prison for child pornography. The law establishes a statute of limitations of 25 years for sexual crimes against minors. The minimum age of consensual sex is 18 years. The country was a destination for

child sex tourism.

Institutionalized Children: The Ombudsman’s Office issued a series of recommendations to PANI, which included a recommendation to design shelters for children according to international standards. These recommendations were a result of the Ombudsman Office’s 2020 plan to conduct random inspections as a follow-up measure to reduce overcrowding in PANI shelters. The judicial investigation continued in the 2020 case of allegations of abuse of children in a PANI-operated shelter. PANI representatives reported they took immediate actions to guarantee the protection of the nine victims and opened a disciplinary procedure against the workers while the judicial investigation progressed.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish Zionist Center estimated there were between 3,000 and 3,500 Jewish persons in the country. There were isolated reports of anti-Semitic comments on social media.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities. The law establishes that persons with disabilities can access education, health services, public buildings, and transportation on an equal basis with others. The law also establishes a right to employment for persons with disabilities and sets a hiring quota of 5 percent of vacant positions in the public sector. On May 28, the president signed two

executive orders that seek to assure employment for persons with disabilities by facilitating enforcement of a quota for positions in the public sector and by promoting employment in the private sector. The government did not effectively enforce the law.

Although the law mandates access to buildings for persons with disabilities, the government did not enforce this provision, and many buildings remained inaccessible to persons with disabilities. The Ombudsman's Office reported that the poor condition of ramps, lack of priority seating, and the height of steps continued to be reasons for complaints. The report also noted that government officials did not sanction transportation providers for these violations. The government policy on education and the national plan for higher education aimed to increase educational opportunities for students with disabilities. According to an August complaint by a student with disabilities, the University of Costa Rica was not accessible to students with disabilities. The student's complaint noted that he was not able to enroll in a required course for two years because the university would not provide an interpreter. The Ombudsman's Office investigated the complaint and recommended a change to the method of requesting interpreters for deaf students at the university.

HIV and AIDS Social Stigma

Although the law prohibits discrimination based on HIV/AIDS in health care, housing, employment, and education, some discrimination was reported.

Labor discrimination towards HIV patients continued; some persons reported losing their jobs due to discrimination, their deteriorating health, or both, although the problem was not widespread. The government took no concrete steps to combat discrimination based on HIV/AIDS status despite having adopted a national strategic plan on HIV and AIDS (2016-21).

On February 10, the Ombudsman's Office cut funding to an HIV containment project. In reaction to this announcement, 20 civil society organizations and an estimated 40 persons protested outside of the Ombudsman's Office to demonstrate

support for the HIV project.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

No law explicitly prohibits discrimination based on gender identity. Discrimination against persons based on sexual orientation and gender identity is prohibited by a series of executive orders and workplace policies but not by national laws.

There were cases of discrimination against persons based on sexual orientation, ranging from employment, police abuse, and access to education and health-care services. LGBTQI+ individuals experienced discrimination within their own families due to their sexual orientation, gender identity or expression, and sex characteristics.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions, bargain collectively, and conduct legal strikes. The government respected these rights. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity. Unions must register, and the law provides a deadline of 15 days for authorities to reply to a registration request. The law permits foreign workers to join unions but prohibits them from holding positions of authority within the unions, except for foreign workers who are married to citizens of the country and have legally resided in the country for at least five years.

The labor code stipulates that at least 50 percent of the workers in an enterprise must vote to support a strike. The law, however, adds that even if there is no union at the enterprise or if the union lacks the support of 50 percent of the workforce, a strike may be initiated if 35 percent of the workers call for a vote by secret ballot. The law restricts the right to strike for workers in services designated as essential by the government, including in sectors such as oil refineries and ports that are not recognized as essential services under international standards. The law regulates

strikes, including a prohibition on strikes by workers in nine essential public services, and allows employers to suspend the pay of public-service workers who are on strike.

The law also permits two other types of worker organizations unique to the country: “solidarity associations,” legal entities recognized by the constitution that have both management and employee membership and serve primarily to administer funds for severance payments; and “permanent committees,” enterprise-level bodies made up of three workers elected to negotiate “direct agreements” with employers. Both entities may coexist and share membership with labor unions. The law also requires that permanent committee members be elected freely by secret ballot without intervention of the employer.

The law requires employers to initiate the bargaining process with a trade union if more than one-third of the total workforce, including union and nonunion members, requests collective bargaining, but the law also permits direct bargaining agreements with nonunionized workers. The law establishes a scope of implementation and procedures for negotiations. The law prohibits solidarity associations from representing workers in collective bargaining negotiations or in any other way that assumes the functions or inhibits the formation of trade unions. Although public-sector employees are permitted to bargain collectively, the Supreme Court held that some fringe benefits received by certain public employees were disproportionate and unreasonable, and it repealed sections of collective bargaining agreements between public-sector unions and government agencies, thus restricting this right in practice. A court’s decision ratified the ceiling of 12 years for severance pay when an employee is terminated.

The government effectively enforced applicable laws, and penalties were commensurate with those for other laws involving denials of individual rights, such as discrimination. While the law establishes sanctions (fines and fees) for infractions, only the judiciary has the authority to apply such sanctions. The amount of fines and fees is determined by the severity of the infraction and is based on the minimum wage. The law requires labor claims to be processed within two years and sets up a special summary procedure for discrimination claims. The law also provides labor union members protections against discrimination based on

labor affiliation and special protections via special expedited proceedings.

Freedom of association and collective bargaining were generally respected. Labor unions asserted that solidarity associations set up and controlled permanent committees at many workplaces, which in turn conducted negotiations and established direct agreements. Labor unions also asserted that employers sometimes required membership in a solidarity association as a condition for employment. To the extent that solidarity associations and permanent committees displaced trade unions, they affected the independence of workers' organizations from employers' influence and infringed on the right to organize and bargain collectively. In recent years the International Labor Organization (ILO) reported an expansion of direct agreements between employers and nonunionized workers and noted its concern that the number of collective bargaining agreements in the private sector continued to be low when compared with a high number of direct agreements with nonunionized workers.

In some instances employers fired employees who attempted to unionize. The Ministry of Labor reported nine allegations of antiunion discrimination from January to July. There were reports some employers also preferred to use "flexible," or short-term, contracts, making it difficult for workers to organize and collectively bargain. Migrant workers in agriculture frequently were hired on short-term contracts through intermediaries (outsourcing), faced antiunion discrimination and challenges in organizing, and were often more vulnerable to labor exploitation. Although migrant workers outside the agriculture sector were able to unionize, they were not able to participate as board members.

The ILO noted no trade unions operated in the country's export-processing zones and identified the zones as a hostile environment for organizing. Labor unions asserted that efforts by workers in export-processing zones to organize were met with illegal employment termination, threats, and intimidation and that some employers maintained blacklists of workers identified as activists.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced or compulsory labor. The government effectively enforced the law. The law establishes criminal penalties

for trafficking in persons crimes that were commensurate with those for other serious crimes, such as kidnapping. Forced labor of migrants occurred in the agricultural and domestic service sectors. As of July the Attorney General's Office reported a conviction of trafficking for labor exploitation involving a minor victim.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The child and adolescence code prohibits labor of all children younger than age 15 without exceptions, including the worst forms of child labor; it supersedes the minimum working age of 12 established in the labor code. Adolescents between the ages of 15 and 18 may work a maximum of six hours daily and 36 hours weekly. The law prohibits night work and overtime for minors. The law prohibits children younger than age 18 from engaging in hazardous or unhealthy activities and specifies a list of hazardous occupations. The government generally enforced child labor laws effectively in the formal sector but not in the informal sector.

Child labor occurred primarily in the informal economy, especially in the agricultural, commercial, and industrial sectors. The worst forms of child labor occurred in agriculture on small third-party farms in the formal sector and on family farms in the informal sector. Forced child labor reportedly occurred in some service sectors, such as agriculture, construction, fishing, street vending, and domestic service, and some children were subject to commercial sexual exploitation (see section 6, Children). Judicial authorities reported that criminal organizations took advantage of vulnerable minors to involve them in illicit activities. The majority of those involved were male teenagers younger than age 18. Authorities suspected that adults used children to transport or sell drugs; some of these children may have been trafficking victims.

While the Ministry of Labor is responsible for enforcing and taking administrative actions against possible violations of, or lack of compliance with, child labor laws, the Prosecutor's Office intervenes in cases regarding the worst forms of child labor. The government effectively enforced the law. As with other labor laws, the authority to sanction employers for infractions lies solely with the judiciary, and

the law requires labor inspectors to initiate legal cases with the judiciary after exhausting the administrative process. The amount of fines and fees is determined by the severity of the infraction and is based on an equation derived from the minimum wage. Penalties were commensurate with those for other analogous crimes, such as kidnapping.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* and *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The laws and regulations prohibit discrimination in employment and occupation regarding race, color, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation or gender identity, age, language, HIV-positive status, or other communicable diseases status. The labor code prohibits discrimination based on age, ethnicity, gender, religion, race, sexual orientation, civil status, political opinion, nationality, social status, affiliation, disability, labor union membership, or economic situation. The government effectively enforced these laws and regulations, and penalties were commensurate to laws related to civil rights, such as election interference. The Labor Ministry reported seven cases of discrimination from January to July, five cases of discrimination based on health conditions and two cases based on gender. The ministry continued to implement a gender-equality perspective into labor inspections to identify areas of vulnerability. The COVID-19 pandemic affected women's employment, with women suffering the greatest number of job losses (see section 6, Women). As of November the unemployment rate for women reached 19.8 percent, compared with 18 percent before the pandemic started.

On August 10, the president signed an affirmative action law in favor of persons of African descent. This law sets a hiring quota of 7 percent of vacant positions in the public sector and creates educational programs for persons of African descent.

Discrimination in employment and occupation occurred with respect to persons with disabilities and the LGBTQI+ population. Discrimination against migrant workers from Nicaragua occurred, and there were reports of instances of

employers using threats of deportation to withhold their wages.

e. Acceptable Conditions of Work

Wage and Hour Laws: The wage council of the Ministry of Labor sets the minimum wage scale for the public and private sectors twice a year. Monthly minimum wages were above the poverty line. The national minimum wage applied to both Costa Rican and migrant workers. The law sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Workers generally may work a maximum of eight hours a day or 48 hours weekly. Workers are entitled to one day of rest after six consecutive days of work, except in the agricultural sector, and annual paid vacations. The law provides that workers be paid for overtime work at a rate 50 percent above their stipulated wage or salary. Although there is no statutory prohibition against compulsory overtime, the labor code stipulates the workday may not exceed 12 hours, except in the agricultural sector when there is “imminent risk of harm...to the harvest” when work cannot be suspended and workers cannot be substituted. While women may work in the same industries as men, there are legal restrictions regarding limits on women’s working hours and tasks. Women and children are prohibited from working in jobs deemed dangerous by law. The government effectively enforced minimum wage and overtime laws mainly in the formal sector, and penalties were commensurate with those for similar labor infractions.

The Ministry of Labor’s Inspection Directorate is responsible for labor inspection, in collaboration with the Social Security Agency and the National Insurance Institute. The directorate employed labor inspectors, who investigated all types of labor violations. The number of labor inspectors was insufficient to deter violations. According to the Ministry of Labor, inspections occurred both in response to complaints and at the initiative of inspectors. The directorate stated it could visit any employer, formal or informal, and inspections were always unannounced.

The Labor Ministry generally addressed complaints by sending inspection teams to investigate and coordinate with each other on follow-up actions. As with other labor laws, inspectors cannot fine or sanction employers who do not comply with laws on acceptable conditions of work; rather, they investigate and refer

noncompliance results to labor courts. The process of fining companies or compelling employers to pay back wages or overtime was habitually subject to lengthy delays.

The Ministry of Labor generally enforced minimum wages effectively in the San Jose area but less effectively in rural areas, particularly where large numbers of migrants were employed, and in the large informal sector. The ministry publicly recognized that many workers, including in the formal sector, received less than the minimum wage, mainly in the agricultural sector. Although the inspection directorate conducted inspections in workplaces during the rating period, the directorate was not able to reach the number of in-person inspections conducted before the pandemic.

Observers expressed concern about exploitative working conditions in fisheries, small businesses, and agricultural activities. Unions also reported systematic violations of labor rights and provisions concerning working conditions, overtime, and wages in the export-processing zones. Labor unions reported overtime pay violations, such as nonpayment of wages and mandatory overtime, were common in the private sector and particularly in export-processing zones and agriculture.

Occupational Safety and Health: The government maintains a dedicated authority to enforce occupational safety and health (OSH) standards. The OSH standards are appropriate for the main industries in the country, according to the National Council of Occupational Safety and Health. The Labor Ministry's National Council of Occupational Health and Safety is a tripartite OSH regulatory authority with government, employer, and employee representation. Penalties for violations of OSH laws were commensurate with those for similar labor infractions, although the government did not enforce these standards effectively in either the formal or the informal sectors.

The responsibility for identifying unsafe situations remained with the Labor Ministry's OSH experts and not the worker. Workers may remove themselves from situations that endanger health or safety without jeopardizing their employment. According to the Labor Ministry, this is a responsibility shared by the employer and employee. The law assigns responsibility to the employer, including granting OSH officers access to workplaces, but it also authorizes

workers to seek assistance from appropriate authorities (OSH or labor inspectors) for noncompliance with OSH workplace standards, including risks at work. The responsibility for occupational accidents and diseases falls on the insurance policy of the employer.

There were reports that agricultural workers, particularly migrant laborers in the pineapple industry, worked in unsafe conditions, including exposure to hazardous chemicals without proper training. The national insurance company reported 54,525 cases of workplace-related illnesses and injuries and 80 workplace fatalities from January to June.

Informal Sector: Almost 44 percent of the workforce operated in the informal economy during the second quarter of the year. Workers in the informal sector were not covered by wage, hour, and OSH laws and inspections, nor were they enrolled in the public health service. Most informal workers worked in the service sector, which includes commerce, domestic service, transportation, storage, accommodation, and food services.